

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov



In the matter of,)	Docket No. 10-SOPR-1
)	
Rulemaking on Solar Offset Program)	NOTICE OF PROPOSED ACTION
Regulations)	RE: Proposed Regulations for Solar
_____)	Offset Program

**California Code of Regulations, Title 20
Division 2, Chapter 9, Article 1
Sections 2700-2704**

**NOTICE OF PROPOSED ACTION
October 22, 2010**

The Energy Commission's Renewables Committee will hold a public hearing on the following date to receive public comment on the Express Terms (45-Day Language). The hearing will be held:

DECEMBER 7, 2010
1:00 p.m. to 4 p.m.
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room B
Sacramento, California
(Wheelchair Accessible)

Audio from this hearing will be broadcast over the Internet. Details regarding the Energy Commission's webcast can be found at: www.energy.ca.gov/webcast

At this hearing any person may present statements or arguments relevant to the proposed action. Interested parties may also submit written comments; if possible, please provide written comments to be considered at the Committee hearing by **December 6, 2010**. The Energy Commission appreciates receiving written comments at the earliest possible date.

INTRODUCTION

In 2006, the Governor signed into law Senate Bill 1 (SB 1, Murray, Chapter 132, Statutes of 2006) a bill that expanded Governor Schwarzenegger's "Million Solar Roofs Initiative" and builds on the California Public Utilities Commission's California Solar Initiative Program, the California Energy Commission's New Solar Homes

Partnership and existing publicly owned utility solar energy system incentive programs. SB 1 directs total expenditures of up to \$3.3 billion by 2017 with goals to install solar energy systems with generation capacity equivalent of 3,000 megawatts, to establish a self-sufficient solar industry so that in 10 years solar energy systems are a viable mainstream option for homes and commercial buildings, and to put solar energy systems on 50 percent of new homes by the end of the program. The overall goal is to help build a self-sustaining solar electricity market combined with improved energy efficiency in the state's residential and non-residential buildings.

Public Resources Code Section 25405.5, enacted by SB 1, directs the California Energy Commission to develop regulations that require a seller of production homes, beginning January 1, 2011, to offer the option of a solar energy system to all customers negotiating to purchase a new production home constructed on land meeting certain criteria and disclose certain information. Section 25405.5 also requires the Energy Commission to develop an offset program that allows a developer or seller of production homes to forgo the solar as an option offer requirement on a project by installing solar energy system generating specified amounts of electricity on other projects.

On January 13, 2010, the Energy Commission approved an Order Instituting Rulemaking (Docket # 09-SOPR-1) to adopt guidelines, definitions, and other provisions necessary for the administration of the Homebuyer Solar Option and the Solar Offset Program. The purpose of this rulemaking is to develop and adopt regulations that are necessary to clarify ambiguities in the statute and create certainty and transparency in the administration of the program.

In May 2010, staff developed a paper titled, *Solar Offset Program Pre-Rulemaking*, Energy Commission Publication No. CEC-300-2010-005, which presented issues and possible alternatives that were raised by Energy Commission staff and stakeholders. Staff conducted a workshop on May 20, 2010 to discuss the issues and proposed solutions outlined in the staff paper and to seek comments from interested stakeholders.

On September 20, 2010, staff published a report titled, *Solar Offset Program Pre-Rulemaking Draft Regulations*, Energy Commission Publication No. CEC-300-2010-009-SF, which outlined proposed draft regulations to be considered during the rulemaking for both the Homebuyer Solar Option and Solar Offset Program.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons as part of the supporting documents to adopt the proposed regulations. The Energy Commission has also published the Express Terms (45 day language) of the proposed regulations language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at www.energy.ca.gov/2010-SOPR-1/index.html. In addition, all the information upon which this proposed rulemaking is based will made available at the California Energy Commission, 1516 Ninth Street, Sacramento, CA 95814.

SECOND HEARING/PROPOSED ADOPTION DATE

The Energy Commission will consider possible adoption of the 45-Day Language at the regularly scheduled Energy Commission Business meeting unless the Energy Commission decides to modify the Express Terms through issuance of 15-Day Language.

DECEMBER 29, 2010

10 a.m.

California Energy Commission
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair Accessible)

Audio for the **December 29, 2010**, adoption hearing will be broadcast over the internet. Details regarding the Energy Commission's webcast can be found at:
www.energy.ca.gov/webcast.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

At this hearing any person may present statements or arguments relevant to the proposed action. Interested parties may also submit written comments (see below).

PUBLIC COMMENT PERIOD/WRITTEN COMMENTS

The public comment period for this NOPA will be from **October 22, 2010** through **December 6, 2010**. Any interested person may submit written comments on the proposed regulations. Regarding the Renewables Committee and Adoption Hearings, the Energy Commission appreciates receiving written comments at the earliest possible date. For the **December 7, 2010** hearing, please provide written comments by **December 6, 2010**; for the **December 29, 2010** adoption hearing, please provide written comments by **December 28, 2010**. However written comments will still be accepted at both hearings. Written comments shall be emailed to [\[docket@energy.state.ca.us\]](mailto:docket@energy.state.ca.us) and [\[sneidich@energy.state.ca.us\]](mailto:sneidich@energy.state.ca.us), or mailed or delivered to the following address (emailing is preferred):

California Energy Commission
Docket No. 10-SOPR-1
Docket Unit
1516 Ninth Street, MS-4
Sacramento, California 95814-5504

Include docket number **10-SOPR-1** and indicate **Solar Offset Program** in the subject line or first paragraph of your comments. The Energy Commission encourages comments by electronic mail (e-mail). Please include your name or organization in the name of the file. Those submitting comments by e-mail should provide them in either Microsoft Word format or as a Portable Document File (PDF) to [\[docket@energy.state.ca.us\]](mailto:docket@energy.state.ca.us).

AUTHORITY AND REFERENCE

Public Resources Code Section 25213 and 25218(e) provide the Commission with the authority to adopt rules and regulations necessary to carry out its assigned duties and responsibilities. Further, Public Resources Code Section 25218.5 provides that provisions specifying any power of the Commission, such as Commission's rulemaking authority, shall be liberally construed. The proposed regulations implement, interpret, and make specific provisions of Public Resources Code Sections 25405.5 and 25783.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law (Public Resources Code Section 25405.5, as enacted by Senate Bill 1) directs the California Energy Commission to develop regulations that require a seller of production homes, beginning January 1, 2011, to offer the option of a solar energy system to all customers negotiating to purchase a new production home constructed on land meeting certain criteria and disclose certain information. Public Resources Code Section 25405.5 also requires the Energy Commission to develop an offset program that allows a developer or seller of production homes to forgo the solar as an option offer requirement on a project by installing solar energy systems generating specified amounts of electricity on other projects.

The purpose of this rulemaking is to adopt regulations to add Article 1, Sections 2700-2704 to California Code of Regulations, Title 20, Division 2, Chapter 9.

In the rulemaking proceeding that is the subject of this Notice of Proposed Action, the Energy Commission is proposing to adopt the following regulations to comply with Public Resources Code Section 25405.5: (1) add a scope which defines the Homebuyer Solar Option and the Solar Offset Program; (2) add the following definitions, AC, Banking, Building Energy Efficiency Standards for Residential and Nonresidential Buildings Solar Offset Program Calculator, Climate Zone, Energy Commission, IOU, kW, MW, Minimal Shading, New Solar Homes Partnership (NSHP), Offset Solar Energy System, POU, Production Home, PV, Reference Solar Energy System, Solar Energy System, Time Dependent Valuation (TDV); (3) define the requirements for the Homebuyer Solar Option which includes information the seller of production homes needs to disclose to a prospective home buyer, reporting and verification of compliance requirements that a seller of production homes shall adhere to; (4) define the requirements for the Solar Offset Program which includes requirements of the offset

solar energy system, reference solar energy system details, banking definition, details on managing the banking system, and withdrawing from the banking system, annual reporting requirements that the developer/seller must adhere to; and (5) how future ordinances will affect the regulations.

LIST OF DOCUMENTS INCORPORATED BY REFERENCE

California Energy Commission

Guidelines for California's Solar Electric Incentive Program (Senate Bill 1) Third Edition

June 2010, Energy Commission Publication No. CEC-300-2010-004-CMF

LOCAL MANDATE

The proposed regulations will not impose a mandate on state or local agencies or districts.

ECONOMIC AND FISCAL IMPACTS

The Energy Commission has made the following initial determinations:

- The proposed regulations will not impose a mandate on state or local agencies or districts.
- The proposed regulations will not impose any costs on local agencies or school districts for which Government Code sections 17500 to 17630 require reimbursement.
- The proposed regulations will not result in other non-discretionary costs or savings imposed upon local agencies.
- The proposed regulations will not result in any costs or savings for state agencies.
- The proposed regulations will not result in any costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

The proposed regulations will have no direct impact on housing costs because prospective home buyers are not required to install a solar energy system; this is an option during the home purchase negotiations. If a prospective home buyer chooses to install a solar energy system, the cost of this system could be added to the purchase price of the home. It is estimated that the average cost of a residential solar installation, less than 10 kW, is \$8.49 per watt (California Public Utilities Commission, California Solar Initiative, 2009 Impact Evaluation). The Energy Commission determined that a

median sized new construction, residential solar energy system is 2 kW or 2,000 watts. The cost of installation for this solar energy system, before state rebates and a federal tax incentive, would be approximately \$16,980. Incorporating the cost of the solar energy system into the home loan will increase the monthly mortgage payment, however, the home buyers' investment may be offset through reduced energy costs and increased value of the home.

If the home buyer does not elect to install a solar energy system then there would be no increase in the purchase price of the home, and therefore, no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The Energy Commission has made an initial determination that there will be no significant (or insignificant) statewide adverse economic, fiscal, or environmental impact directly affecting businesses, including small businesses, as a result of the proposed regulations, including the ability of California businesses to compete with businesses in other states.

If the developer selects the option to install an offset solar energy system, there would be a cost to the developer. It is unknown at this time how big this offset solar energy system would be or the cost to install it. It is estimated that the average cost of a large commercial solar installation, over 10 kW, is \$7.09 per watt (CPUC California Solar Initiative, 2009 Impact Evaluation). Since it is unknown how large an offset system will be installed we can only provide an estimate.

If a developer built a housing development that consisted of 100 homes, and our regulations assume that 20 percent of prospective home buyers will install a solar energy system, then 20 homes would be the number that would be offset. The Energy Commission has already determined that a 2 kW solar energy system will be used as the baseline for determining expected time-dependent valuation weighted equivalent energy of the solar energy system for the offset location. The developer will divide the homes that are being offset by 2 kW. Therefore, the developer will be required to build an offset solar energy system that is at least 40 kW or 40,000 watts. The cost to build this offset solar energy system would be approximately \$283,600. This is an approximate number, since it is unclear what the developer will actually pay for the offset solar system.

The developer could pass the cost of the offset system onto the purchase price of the homes in the housing development that is using the offset. This is also an unknown.

There could be a positive impact to the solar industry and new housing developments. With the implementation of the Homebuyer Solar Option, homebuyers will now have an option to install solar on their new home and incorporate the cost of this option into their monthly mortgage payment. This might steer prospective homebuyers to new

construction homes, therefore, increasing the construction of these homes. This increase could impact businesses in a positive way by increasing the manufacture of solar modules and inverters (could decrease the cost of these products and create new jobs), boost sales by retailers (could add new businesses and create new jobs), improve the workload of installers (could reduce the cost of installations and add to the workforce) and possibly increase sales of new construction homes (possible job creation).

IMPACTS ON THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE, THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES, OR THE EXPANSION OF BUSINESSES IN CALIFORNIA

The proposed regulations will have no impact on the creation or elimination of jobs with the state, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORTS

The proposed regulations would require mandatory data submittal for the purpose of identifying housing developments that will be offering the Homebuyer Solar Option to prospective home buyers, ensuring that the seller of production homes is providing solar as an option materials to the home buyer, verifying an offset solar energy system interconnection date, and managing a banking system and withdrawals from this banking system. The Energy Commission estimates that the annual reporting cost would be \$400 per developer/seller.

It is necessary for the health, safety or welfare of the people of the state that the proposed regulations apply to business. The Legislature has required the Energy Commission to develop these regulations, and the submittal of data is necessary to verify compliance.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The proposed regulations do not duplicate or conflict with any federal regulations contained in the Code of Federal Regulations. Furthermore, the proposed regulations are not mandated by federal law or regulations.

ALTERNATIVES

Before it adopts the proposed regulations, the Energy Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective as and less burdensome to affected private persons than the proposed amendments. To date, the Energy Commission has found no alternatives to the proposed action that would be more effective, or as effective and less burdensome.

DESIGNATED CONTACT PERSONS

Please contact the following person, preferably by e-mail, for general information about the proceedings or to obtain any document relevant to the proceedings, including the Express Terms (45-Day Language), the Initial Statement of Reasons, the Form 399 (Economic and Fiscal Impact Statement), and any other document in the rulemaking file:

Sherrill Neidich
California Energy Commission
1516 Ninth Street, Mail Station 45
Sacramento, California 95814-5512
Telephone: 916-651-1463 Fax: 916-653-8251
E-mail address: sneidich@energy.state.ca.us

The backup contact person is:

Anthony Ng
Telephone: (916) 654-4544
E-mail address: ANg@energy.state.ca.us

PUBLIC PARTICIPATION

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission activities. If you want information on how to participate in these proceedings, please contact the Public Adviser's Office by phone at (916) 654-4489 or toll free at (800) 822-6228, by FAX at (916) 654-4493, or by e-mail at [PublicAdviser@energy.state.ca.us] If you have a disability and require assistance to participate, please contact Lou Quiroz at (916) 654-5146 at least five days in advance.

Please direct all news media inquiries to the Media and Public Communications Office at (916) 654-4989, or by e-mail at [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

AVAILABILITY OF MODIFIED AMENDMENTS (15-DAY LANGUAGE)

At the **December 29, 2010** Adoption Hearing, the Energy Commission may adopt the proposed regulations substantially as described in this NOPA. If the Renewables Committee decides to make modifications in response to public comments, this hearing will be continued to a subsequently noticed date and the full modified text with changes clearly indicated will be made available to the public at least 15 days before the subsequently noticed date when the Commission will consider adoption of the regulations. A notice of the availability of any such text will be placed on the Commission's website and will be mailed to all persons to whom this notice is being mailed, who submitted written or oral comments at any hearing, who submitted written comments during the public comment period, or who requested to receive such modifications. In addition, copies may be requested from the contact person named above and from the Docket Office. The Commission will accept written comments on any such modified text for at least 15 days after the text is made available to the public. Adoption of the 15-Day Language will be considered at a public hearing scheduled in the notice of availability

FINAL STATEMENT OF REASONS

The Energy Commission will prepare a Final Statement of Reasons on the regulations to respond to all relevant comments made during the proceeding. The Final Statement of Reasons will be available from Sherrill Neidich or the Docket Office noted above.

Mail Lists: Agendas, Renewable, Go Solar, NSHP Communities, PV Calculator

Note: The California Energy Commission's formal name is the State Energy Resources Conservation and Development Commission.